



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdca.wa.gov

January 30, 2006

PAUL BERENDT, CHAIR
WA STATE DEMOCRATIC CENTRAL COMMITTEE
PO BOX 4027
SEATTLE WA 98104-0027

Subject: Complaint filed against Republican Governors Association - PDC Case No. 05-100

Dear Mr. Berendt:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received October 14, 2004, alleging violations of RCW 42.17 by the Republican Governors Association (RGA) and the Republican Governors Association Washington PAC (RGA WA PAC).

PDC staff reviewed the complaint in light of the following statutes:

RCW 42.17.040 requires entities that meet the definition of a "political committee" to file a timely registration with the PDC.

RCW 42.17.080 and .090 require a political committee to file timely detailed reports of contribution and expenditure activities.

RCW 42.17.120 states "No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment."

RCW 42.17.135 requires a political committee receiving an earmarked contribution, and the candidate or committee for whose benefit the contribution is earmarked, to report details of the contribution.

RCW 42.17.093 requires an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 to file PDC form C-5 when it makes an expenditure supporting or opposing a Washington state candidate or political committee. The reporting out-of-state political committee is required to include the name and address of each person residing in the state of Washington or corporation which has a place of business in the state of Washington who has made one



or more contributions in the aggregate of more than \$25 to the out-of-state committee during the current calendar year, together with the money value and date of such contributions. A political committee required to file campaign reports with the federal election commission is exempt from reporting under this section.

RCW 42.17.510(2) states in part that in addition to the sponsor identification requirements of RCW 42.17.510(1) all political advertising undertaken as an independent expenditure by a nonindividual other than a party organization must include the notation: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions during the 12 months before the date of the advertisement.

I.

You alleged that the RGA is an unregistered political committee that concealed the identity of the funds it used to create the RGA WA PAC, a violation of RCW 42.17.040, .080, .090 and .120. You also alleged that both the RGA and the RGA WA PAC failed to properly report the receipt of "*earmarked contributions*," an alleged violation of RCW 42.17.135.

We found that:

- The RGA is an association of Republican governors that raises funds for a variety of purposes in all parts of the country. The RGA is registered with the Internal Revenue Service as a Section 527 political organization.
- The RGA held a fundraiser in Seattle on July 17, 2004. The RGA invited several Washington state businesses to attend the fundraiser. The stated admission price was \$5,000, although not everyone paid that amount. The fundraiser was described as an opportunity to meet other business representatives, several governors, and gubernatorial candidate Dino Rossi. Several business attendees said their donation was not tied to a specific candidate. One attendee said it was his understanding, based on experience, that the RGA was supporting Dino Rossi, but said the RGA did not tie their donation to the Rossi candidacy.
- On September 16, 2004, the RGA WA PAC filed a committee registration (PDC form C-1pc) to operate a political committee within the state of Washington. The committee listed addresses in Washington D.C. for its headquarters and bank account. It listed the address of the Washington State Republican Party for review of its campaign records during the eight days before the general election.
- The RGA WA PAC timely reported the receipt of \$1,540,000 from the RGA. It spent the majority of its funds to pay for independent expenditure broadcast advertising opposing gubernatorial candidate Christine Gregoire and supporting gubernatorial candidate Dino Rossi.

Having completed its investigation into this matter, the PDC staff has determined that the law governing the reporting requirements of an unregistered in-state political committee

is unclear as it applies to a national organization creating and funding an in-state political committee, and that further study of this issue by Commission staff is warranted as it applies to the RGA and similar national organizations. Accordingly, the PDC has decided not to proceed with an enforcement action against the RGA.

Because PDC will not be pursuing enforcement on this issue, the allegation that contributions were concealed and that the RGA failed to properly report the receipt of "*earmarked contributions*" will likewise not be pursued. To provide clarity and guidance for future reporting by the RGA and similar national organizations, PDC staff will conduct further study of this issue after conclusion of this case.

II.

Although not alleged in your complaint, PDC staff reviewed whether the RGA was required to file PDC form C-5 in accordance with RCW 42.17.093 for making contributions to the RGA WA PAC.

We found that:

- The RGA held a fundraiser in Washington state and then organized and funded the RGA WA PAC, which spent money to support Dino Rossi.
- The RGA WA PAC timely reported receipt of its contributions from the RGA.

Because the RGA held a fundraiser in Washington state and then organized and funded the RGA WA PAC, which spent money to support Dino Rossi, PDC staff believes the RGA acted as an out-of-state political committee and had an obligation under RCW 42.17.093 to file PDC form C-5.

During our investigation, at the request of PDC staff, the RGA submitted a list of all Washington state residents and companies with a Washington state address as their primary place of business that made contributions to the RGA aggregating more than \$25 between January 1, 2004 and October 31, 2004. PDC staff accepted this list of donors in place of what staff believes is a required C-5 report. Because the RGA has satisfied the C-5 reporting requirements, the PDC will not be pursuing an enforcement action against the RGA for failing to file a C-5 report.

Although the RGA voluntarily provided this information, the group contends that it is not subject to RCW 42.17.093. The RGA contends that as a Section 527 "political organization" registered with the Internal Revenue Service, and not registered with another state or the Federal Election Commission, it is not required to report its contributions to the state of Washington under RCW 42.17.093.

As noted above, there is a difference of opinion concerning whether organizations such as the RGA are required to report under RCW 42.17.093. It is clear that further study of this issue by Commission staff is warranted as it applies to the RGA and similar national

organizations. Accordingly, to provide clarity and guidance for future reporting by the RGA and similar national organizations, PDC staff will conduct further study of this issue after conclusion of this case. The purpose of the study will be to determine the reporting responsibilities of organizations like the RGA under RCW 42.17.093. The review will also include the proper interpretation of RCW 42.17.093(1)(f) as it applies to reporting the name and address of each person residing in the state of Washington or corporation which has a place of business in the state of Washington who has made one or more reportable contributions.

III.

You also alleged that the RGA WA PAC failed to report the value of in-kind assistance it received from the RGA, an alleged violation of RCW 42.17.080 and .090.

We found that:

- The RGA WA PAC paid for its own administrative expenses and timely reported those expenditures.

Thus, the PDC will not pursue enforcement for this allegation.

IV.

You alleged that the RGA sponsored political advertising opposing gubernatorial candidate Christine Gregoire and supporting gubernatorial candidate Dino Rossi, and failed to list the top five contributors to the RGA in its sponsor identification, an alleged violation of RCW 42.17.510(2). Your allegation appears to be based on your understanding that the money for the advertising campaign was raised by the RGA and then given to the RGA WA PAC.

We found that:

- The RGA WA PAC was a political committee registered and reporting with the Public Disclosure Commission. It received and reported that its funding was from the RGA.
- The RGA WA PAC was listed as the sponsor of the advertising that is the subject of your complaint. The RGA WA PAC paid for the advertising.
- The sponsor identification listed the RGA as the only contributor to the RGA WA PAC. The RGA was the only contributor listed on C-3 reports filed by the RGA WA PAC.

The RGA is the only entity that made a contribution directly to the RGA WA PAC. As noted above, the PDC has decided not to proceed with an enforcement action against the RGA for allegedly being an unregistered political committee in favor of conducting additional study and review. Likewise, the PDC will not pursue enforcement action

against the RGA in this instance for allegedly failing to list the top five contributors to the RGA on the sponsor identification of the RGA WA PAC's broadcast advertising since the sponsor identification requirement would likely only apply to the RGA if it was determined that the RGA and the RGA WA PAC were the same political committee sponsoring the same political advertising.

It is clear, however, that further study of this issue by Commission staff is warranted as it applies to the RGA and similar national organizations. To provide clarity and guidance for future sponsor identification reporting by the RGA WA PAC and similar in-state PACs organized and funded by national organizations, PDC staff will conduct further study of this issue after conclusion of this case.

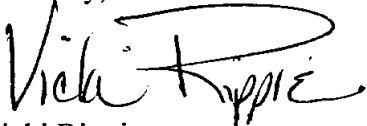
After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against the RGA. The RGA is being notified of this dismissal by separate letter.

As noted above, PDC staff will study the issues identified during our investigation of your complaint and provide guidance for future reporting and disclosure matters for entities such as the RGA and the RGA Washington PAC.

Please note that while the PDC has decided to dismiss the allegations in this particular case in favor of conducting additional study and review, the PDC reserves the right to bring enforcement actions against entities similarly situated to the RGA and the RGA WA PAC in the future should it determine through its study and review of the underlying facts in this case and the relevant law that such action is warranted.

If you have questions, please feel free to contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll free at 1-877-601-2828.

Sincerely,

A handwritten signature in black ink, appearing to read "Vicki Rippie". The signature is fluid and cursive, with a large, sweeping "V" and "R".

Vicki Rippie
Executive Director